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posed to have been in the contemplation of both parties at the same time they made the contract as the probable result of the breach of it. *Hadley v. Baxendale*, 9 Exch. 341; *Stilwell v. B. Mfg. Co.*, 139 U. S. 147. Thus, it is held that a carrier cannot be liable for loss of profits to a plaintiff due to the failure or delay of the carrier to deliver, *Thomas v. Wabash, St. L. & P. Ry. Co.*, 62 Wis. 642, unless the carrier had notice of the special use. *Brock v. Gale*, 14 Fla. 523. Although the authorities in both England and the United States are thoroughly agreed upon the principle laid down in *Hadley v. Baxendale*, *supra*, they differ greatly in the application of it. *Stilwell v. B. Mfg. Co.*, 139 U. S. 147. Thus, where there is a breach of contract to repair by the lessor, it is held by some authorities that there can be no recovery for loss of profits. *Winne v. Kelley*, 34 Iowa 339; *Rogers v. Bemus*, 69 Pa. St. 432. *Contra*: *Stewart v. Lanier House Co.*, 75 Ga. 582. But in all cases where a recovery for loss is sought, the amount must not be merely possible or even probable, but must be proved with a reasonable degree of certainty. *Pollock v. Gantt*, 69 Ala. 373; *White v. Miller*, 71 N. Y. 118.

DEAD BODIES—CIVIL LIABILITIES.—*RUSHING v. MEDICAL COLLEGE OF GEORGIA*, 62 S. E. 563.—*Held*, a husband is entitled to the dead body of his wife for burial, and in the condition in which death leaves it; but a slight incision by the attendant surgeon in a hospital to ascertain the cause of death, authorized by the board of health of the city in which the hospital is located, and in obedience to the requirements of a city ordinance, in order that a certificate of burial may be obtained not otherwise obtainable, where there is no cutting or removal of any limb or organ, and the incision is properly closed and not visible when the body is clothed, does not infringe this right.

At common law, no property right existed in a dead body. 2 *Bl. Com.*, 429. But the right to bury and protect a corpse is a legal right which courts protect. *In re Widenning Beekman St.*, 4 Bradf. Rep. 503. And there is a *quasi* property right or interest in a dead body of a human being, so as to sustain a civil action for its wilful or negligent mutilation. *Wynkoop v. Wynkoop*, 42 Pa. 293. But the mutilation must be done unlawfully. *Larson v. Chase*, 47 Minn. 307. And not for purpose of discovering the cause of death in a careful manner. *Foley v. Phelps*, 1 App. Div. 551.

EVIDENCE—HUSBAND AND WIFE—CONFIDENTIAL COMMUNICATIONS.—*COMMONWEALTH v. FISHER*, 70 ATL. 865 (PA.).—*Held*, that where a prisoner charged with murder dictates letters to his wife, which are delivered by her to the district attorney, such letters are inadmissible, as permitting the wife to testify against her husband. Mitchell, C. J., and Potter, J., *dissenting*.

This question has not been uniformly treated by the courts. Many decisions hold, with the principal case, that if the husband's letters are delivered by the wife herself to a third person, they remain privileged communications. *Selden v. State*, 74 Wis. 271; *Wilkerson v. State*, 91 Ga. 729. Some courts have even held that such letters are inadmissible against the husband no matter how they were obtained, as the privilege attaches

to the communication itself. *Mercer v. State*, 40 Fla. 216; *Scott v. Commonwealth*, 94 Ky. 511. But the greater number of authorities hold that if the letters are not voluntarily delivered by the wife, the privilege does not attach and they are admissible. *State v. Hoyt*, 47 Conn. 540; *Geiger v. State*, 6 Neb. 545. In direct conflict with the principal case is the rule laid down in *People v. Hayes*, 140 N. Y. 484. It was there stated that if a written confidential communication is given to a third party, by the one to whom it is addressed, the protection is waived and it may be treated like any other communication. In Massachusetts it is held, that the privilege of the statute as to confidential communications between husband and wife extends only to private conversations and not to written communications. *Commonwealth v. Caponi*, 155 Mass. 534.

EVIDENCE—TELEPHONE CONVERSATION—ADMISSABILITY.—BARRETT ET AL. V. MAGNER ET AL., 117 N. W. 245 (MINN.).—Where a witness secured telephone connection with the place of business of a party and was told that he was not in but would be called, and soon after another voice answered and a conversation took place similar to a personal conversation between the same parties a few days before, *held*, that such conversation was admissible, even though the identity of the party called to the 'phone was not established by his admission or by a recognition of his voice.

It is an accepted rule that a telephone conversation is admissible in evidence. *Thompson & W. Co. v. Appelby*, 5 Kan. App. 680; *Murphy v. Jack*, 142 N. Y. 215, the fact of its being uncertain and unreliable not excluding it, but merely affecting the weight attached to it. *Shawyer v. Chamberlain*, 13 Ia. 742. But it is always necessary to lay a foundation for the admission of such evidence, by showing the identity of the person answering. *Mo., P. & R. Co. v. Heidenheimer*, 82 Tex. 195. To this end, testimony as to the admission of his identity by the party answering or, as to the recognition of his voice, is considered the proper means. *Gall v. Wolliver*, 103 Ill. App. 71. Where the identification of the office or place of business amounts to an identification of the person, it is a sufficient foundation to show that a connection was secured with such office or place of business. *Guest v. Hannibal & St. J. R. Co.*, 77 Mo. App. 258. *Contra*: *Kimbank v. Ill., C. & E. Co.*, 103 Ill. App. 632.

INNKEEPERS—LIABILITY FOR OFFENSIVE ACTS OF EMPLOYEES.—DE WOLF V. FORD, 112 N. Y. SUPP.—*Held*, that an innkeeper is liable to a guest for the offensive acts of an employee, and that the plaintiff may recover compensatory damages for injuries to her feelings and personal humiliation suffered.

An old English case laid down the rule that an innkeeper is an insurer of the goods and chattels of his guest but not of his person. *Calye's Case*, 8 Coke 32. And in the scarcity of decisions upon this point, a California court has relied upon this case for the common law rule, and has held that an innkeeper is not bound to protect his guests from acts of violence by his servant or other persons, if he does not negligently employ or admit persons of known violent and disorderly propensities who will probably